



10 AUG 2006

SIM & MCBURNEY
330 UNIVERSITY AVENUE
6TH FLOOR
TORONTO ON M5G 1R7 CA CANADA

In re Application of

GUY et al.

Application No.: 10/579,679

: DECISION ON

PCT No.: PCT/CA2004/000837

: PETITION UNDER

Int. Filing Date: 04 June 2004

: 37 CFR 1.137(b)

Priority Date: 05 June 2003

Attorney Docket No.: 7692-44 LAB

For: EPAS1 GENE TRANSFER

TO IMPROVE CELL THERAPY

This decision is in response to applicant's submission filed 18 May 2006.

BACKGROUND

On 04 June 2004, applicant filed international application PCT/CA2004/000837 which designated the U.S. and claimed a priority date of 05 June 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 16 December 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 05 December 2005.

On 18 May 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, *inter alia*, the Basic National Fee, an assertion of small entity status, an unexecuted declaration of inventors, the surcharge under 37 CFR 1.492(h) for filing any of the search fee, the examination fee, or the oath or declaration after the date of the commencement of the national stage, and a petition under 37 CFR 1.137(b) to revive the application.

DISCUSSION

A petition to revive the present application under 37 CFR 1.137(b) must include:

- (1) The required reply;
- (2) The petition fee;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

As to item (1), applicant submitted the basic national fee on 18 May 2006.

As to item (2), applicant submitted the petition fee on 18 May 2006.

As to item (3), the required statement has been provided.

A review of the application file reveals that, with the filing of the present petition and accompanying papers, a proper response has been submitted and all of the requirements of 37 CFR 1.137(b) for revival have been satisfied and revival is therefore appropriate.

CONCLUSION

The petition under 37 CFR 1.137(b) is **GRANTED** for the reasons set forth above.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparing and mailing a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) requiring an executed oath or declaration of the inventor in compliance with 37 CFR 1.497(a)-(b).



Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (571) 272-3301
Facsimile: (571) 273-0459